

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT LOUGH,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF SOCIAL AND HEALTH SERVICES, et
al.,

Defendants.

Case No. C20-5894 LK-TLF

ORDER RE: SETTLEMENT
CONFERENCE WITH UNITED
STATES MAGISTRATE JUDGE

This matter comes before the Court on the parties' joint request for settlement conference and the Honorable Lauren King's order referring this case to the undersigned for settlement purposes. Dkt. 130.

Accordingly, the Court orders as follows:

The parties are directed to appear for a Settlement Conference to be held via Zoom Conference before the United States District Court for the Western District of Washington at Tacoma. The Conference will start at 9:00 AM on February 20, 2024, and will conclude no later than 3:30 PM. The Court will provide the parties with instructions to access the Zoom Videoconference separately from this Order. The required settlement memoranda, more fully described below, are due no later than 1:30 PM on February 14, 2024.

1 Persons with ultimate settlement authority must be personally present on Zoom
2 Videoconference at the settlement conference or readily available by phone.

3 Participation of parties at the settlement conference is likely to increase the
4 efficiency and effectiveness of the settlement conference. **All parties shall participate**
5 **in the Zoom Videoconference with counsel.** A request to be exempt from this
6 requirement should be submitted to the Court in writing no later than noon on February
7 2, 2024. Please address any request to Payal Patel-Marte, Judicial Law Clerk to
8 Magistrate Judge Fricke, at payal_patel@wawd.uscourts.gov. The email subject line
9 should include your case number and "Request for non-appearance of a party."

10 Parties not appearing in person on the Zoom Videoconference shall be available
11 by phone and email (including the ability to review documents and sign) for the duration
12 of the settlement conference.

13 Any counsel appearing without authority to negotiate, or without the ability to
14 readily contact the person with full and ultimate settlement authority throughout the
15 settlement conference, may be sanctioned.

16 Other people who may increase the probability of settling the case should be
17 present, if possible. For example, the attendance of an expert may be helpful. Counsel
18 assisting the client on related matters may need to be involved. At the very least,
19 contact information should be available for them at the conference.

20 **The Court directs plaintiff to make a settlement demand on or before 5:00**
21 **PM on February 14, 2024, and defendants are directed to respond to that demand**
22 **on or before 5:00 PM on February 19, 2024.**

1 Each party shall provide, **in confidence**, a concise settlement memorandum **no**
2 **longer than ten double spaced pages and which should not include attachments**
3 **or exhibits unless under extraordinary circumstances**. Please do not file these
4 confidential memoranda with the Clerk's Office or serve the memoranda on opposing
5 counsel. Each party's confidential memoranda shall include a brief description of:

- 6 1. any liability disputes;
- 7 2. facts you believe you can prove at trial;
- 8 3. the monetary value at issue in the case;
- 9 4. the major weaknesses in each side's case, both factual and legal;
- 10 5. the history of settlement negotiations thus far;
- 11 6. the party's settlement position;
- 12 7. the major obstacle(s) to settlement as you perceive it;
- 13 8. reference (by docket number) to any pending motions that would have a
14 significant effect on settlement for the Court to review prior to settlement;
- 15 9. special issues that may have a material bearing upon settlement discussions;
16 and
- 17 10. any person(s) (with a description of their position or role) you plan to bring to
18 the settlement conference.

19 In setting forth your settlement position, please do not limit your discussion to
20 arguments on the merits of your case. For the Court and the parties to be successful in
21 the limited time provided for this settlement conference, you should provide the Court
22 with a clear and candid understanding of your and your client's actual evaluation of the
23 interests, value, and monetary aspects that your client is most concerned about in any
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1 potential settlement of this case and an idea of terms under which you believe the case
2 should settle.

3 The memorandum shall include the case number, case name, and shall be
4 emailed to Magistrate Judge Fricke, by sending a direct email to Payal Patel-Marte,
5 Judicial Law Clerk, at: payal_patel@wawd.uscourts.gov. The email subject line should
6 read: **"Confidential – Lough v. Washington State Department of Social and Health**
7 **Services, et al., - [insert date]– [Defendant/Plaintiff's name] Settlement Position**
8 **Paper."** Do not mail hard copies of the settlement memorandum to chambers.

9 Counsel for the parties may be contacted by the Court to answer questions,
10 clarify issues, and discuss other preliminary matters designed to ensure the conference
11 itself is productive. Counsel may contact the Court by sending an email to Judicial Law
12 Clerk Payal Patel-Marte at: payal_patel@wawd.uscourts.gov if counsel would like to
13 request an appointment with Magistrate Judge Fricke to address any matter they
14 believe needs to be discussed in advance, including any request to use exhibits,
15 technology-assisted presentations, or conduct lengthy opening statements.


16 It is the duty of the parties to notify the Court if trial is continued or if the case is
17 settled or otherwise disposed of prior to the date of the scheduled settlement
18 conference, so that the matter may be removed from the Court's docket.

19 In the time period immediately preceding the settlement conference, if either
20 party believes that negotiation attempts would not be fruitful at the time set for the
21 conference for any reason, that party should contact the Court as soon as possible to
22 discuss the concern. Counsel for the parties are strongly encouraged to engage in
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1 preliminary discussions with an eye toward meaningfully narrowing their disputes before
2 appearing for the Conference.

3 The Court expects that each participant will be well-prepared, open-minded, and
4 sincerely interested in achieving settlement. To encourage open communication, the
5 Court orders that all matters communicated in connection with this judicial settlement
6 are confidential and not to be used for any other purpose.

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8 Dated this 12th day of January, 2024.

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12 Theresa L. Fricke
13 United States Magistrate Judge
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